

§Appl. No. 09/869,595
Amdt. dated September 19, 2005
Reply to Office Action of, June 17, 2005

REMARKS

Rejection under §112, second paragraph

9. The claims have been corrected to recite “steroid receptor.”
10. Claim 72 has been cancelled and replaced with Claim 81.

Rejection under §112, first and second paragraphs

8. 11. The sequences of the claimed polypeptides were well-known in the art at the time of the application filing. According to *Capon v. Eshhar v. Dudas* (Federal Circuit, decided August 12, 2005), if claims recite nucleotide or amino acid sequences which were well-known prior to the filing date of the application, it is not necessary to include the sequences in the application in order to satisfy the written description requirement. According to the Federal Circuit in *Capon*: “When the prior art includes the nucleotide information, precedent does not set a per se rule that the information must be determined afresh ... their invention is not in discovering which DNA segments are related to the immune response, for that is in the prior art, but in the novel combination of the DNA segments to achieve a novel result.” Similarly, applicant is not claiming that the polypeptide sequences are novel, only that the combination, itself, is unique. The attached pages from GenBank (Exhibit 1) clearly establish that both ras and steroid receptors were well-known in the art on the filing date. Consequently, it is unnecessary to disclose their sequences. See, *Capon*, above. With respect to ras mutants, the Genbank indicates the existence of mutants prior to the application filing date. For example, enclosed is a Genbank entry for the H-ras P21 protein mutant with GLn61 replaced by Leu (Q611) which corresponds to the ras mutant disclosed on pages 52-54 of the specification.

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12. Applicants have amended the claim, rendering the rejection moot. This is not an acquiescence to the rejection, but is purely to expedite prosecution. For example, it would be routine to identify antagonists which have the recited activity.

15. As stated by the examiner, the recited domains are specified to have an activity. The polypeptides are well known in the art, as indicated above, and therefore it would be routine to identify those fragments which possess the recited activity. It is not clear why the examiner considers the claim to be "indefinite." since it clearly states what activity the domain must possess. As indicated in *Capon*, there is no requirement to recite known sequences, since the absence of a sequence in the claim, does not render it indefinite.

16. Claim 14 has been replaced with independent claim 82.

17. Claim 21 has been canceled.

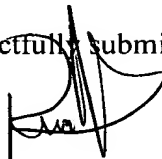
18. Claim 26 has been amended to clarify it.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

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The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Richard M. Lebovitz, Reg. No. 37,067
Attorney for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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